

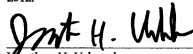
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: US 8,033,211 B2)
)
Issued: October 11, 2011)
)
Patentees:)
)
Inventors: Andrew Michael Halliday)
Nicholas Andrew Hansen)
Colin Darrel Ballard)
Satwinder Singh Panesar)
Assignee: Kraft Foods R & D, Inc.)
)
For: Insert, A Machine)
And A System For The)
Preparation Of Beverages)

Confirmation No. 7180

CERTIFICATE OF EFS-WEB TRANSMISSION

I hereby certify that this correspondence is being transmitted via the United States Patent and Trademark Office (USPTO) electronic filing system (EFS-Web) to the USPTO on February 9, 2012.



Jonathan H. Urbanek
Registration No. 60,686

Application No.: 10/589,459)
)
Filed: August 14, 2006)
)
Attorney Docket: 1410-67681-US)
)
Customer No.: 48940)

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

ATTENTION: Certificate of Corrections Branch
Office of Patent Publication

**REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
FOR PTO MISTAKE (37 C.F.R. § 1.322(a)) AND
FOR APPLICANTS' MISTAKE (37 C.F.R. § 1.323)**

Sir:

In accordance with 37 C.F.R. § 1.322(a) and 37 C.F.R. § 1.323, the above-specified Patentees, through their attorneys, respectfully request that a Certificate of Correction be issued for the above-captioned patent to correct the following errors.

ON THE FACE OF THE PATENT:

Please delete "(22) Filed: Aug. 14, 2006" and insert in its place the following:

--	(22)	PCT Filed:	Feb. 11, 2005	
	(86)	PCT No.:	PCT/GB05/000476	
		§371 (c)(1),		
		(2), (4) Date:	Aug. 14, 2006	
	(87)	PCT Pub. No.:	WO2005/079639	
		PCT Pub. Date:	Sep. 1, 2005	--

(from Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495 and Filing Receipt).

IN THE CLAIMS:

Column 21, line 37, in claim 12, before "claim" delete "any preceding" (Applicants' error from Amendment dated June 16, 2010, page 3 of 15, claim 12, line 1); and

Column 21, line 66, in claim 20, before "claim" delete "any preceding" (Applicants' error from Amendment dated June 16, 2010, page 5 of 15, claim 20, line 1).

REMARKS

The above-requested changes result from errors which occurred on the part of the United States Patent and Trademark Office ("USPTO") during printing of Patent US 8,033,211 B2, and from errors made on the part of Applicants. It is believed that Applicants' errors are of a minor character and that such mistakes occurred in good faith. Accordingly, the errors do not involve such changes in the patent as would constitute new matter or would materially affect the scope or meaning of the patent, nor require reexamination. It is believed that issuance of a Certificate of Correction is appropriate, and issuance of such Certificate is respectfully requested.

A Certificate of Correction form, PTO/SB/44 (also referred to as PTO 1050), incorporating the requested changes is enclosed herewith.

In accordance with procedures set forth in MPEP Section 1480.01 entitled "Expedited Issuance of Certificates of Correction – Error Attributable to Office," Patentees submit herewith a copy of the Filing Receipt mailed April 12, 2007 in U.S. Patent Application No. 10/589,459, which issued as the subject U.S. Patent No. 8,033,211, as supporting documentation so that this request can be processed without the patent file. The Filing Receipt correctly identifies the '459 application as a 35 U.S.C. § 371 national phase application of PCT/GB05/00476, filed February 11, 2005. Thus, in the issued patent, the priority data should specify that the patent is a 371 application of PCT/GB05/00476. The copy of the Filing Receipt is submitted herewith as Exhibit A.

Also submitted herewith is a copy of the Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.495. The Notice of Acceptance of Application indicates that the date of receipt of 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) requirements was August 14, 2006. Thus, in the issued patent, the priority data should specify a 35 U.S.C. 371 (c)(1), (c)(2), and (c)(4) date of August 14, 2006. The copy of the Notice of Acceptance of Application is submitted herewith as Exhibit B.

Patentees also submit herewith copies of a Preliminary Amendment dated August 14, 2006 and an Amendment dated June 16, 2010 as supporting documentation so that this request can be processed without the patent file. In the Preliminary Amendment, the words "any proceeding" were deleted from claims 12 and 20. However, in the subsequent Amendment dated June 16, 2010, Applicants made a clerical error and included the previously-deleted "any proceeding" language in claims 12 and 20. Thus, in the issued patent, claims 12 and 20 should not include the words "any proceeding." The copy of the Preliminary Amendment is submitted herewith as Exhibit C and the copy of the Amendment is submitted herewith as Exhibit D.

Patent US 8,033,211 B2
Issued October 11, 2011
REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT dated February 9, 2012
Attorney Docket 1410-67681-US

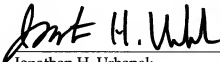
Please send the Certificate to:

Jonathan H. Urbanek, Esq.
FITCH, EVEN, TABIN & FLANNERY LLP
120 South LaSalle Street, Suite 1600
Chicago, Illinois 60603-3406

Pursuant to 37 C.F.R. § 1.20(a), authorization to charge Deposit Account No. 06-1135 for the prescribed fee for correction of Applicants' errors, was given using EFS-Web. The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY LLP

Dated: February 9, 2012


Jonathan H. Urbanek
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598474

EXHIBIT A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address COMMISSIONER FOR PATENTS
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www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/589,459	08/14/2006	1761	2450	67681	51	3

CONFIRMATION NO. 7180

48940
FITCH EVEN TABIN & FLANNERY
120 S. LASALLE STREET
SUITE 1600
CHICAGO, IL60603-3406

FILING RECEIPT

Date Mailed: 04/12/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Andrew Michael Halliday, Banbury, UNITED
KINGDOM;
Nicholas Andrew Hansen, Banbury, UNITED
KINGDOM;
Colin Darrel Ballard, Banbury, UNITED KINGDOM;
Satwinder Singh Panesar, Banbury, UNITED
KINGDOM;

Assignment For Published Patent Application

KRAFT FOODS R & D, INC., Munich, GERMANY

Power of Attorney: The patent practitioners associated with Customer Number 48940

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/GB05/00476 02/11/2005

Foreign Applications

UNITED KINGDOM 0403493.0 02/17/2004

If Required, Foreign Filing License Granted: 04/10/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US10/589,459

Projected Publication Date: 07/19/2007

Non-Publication Request: No

Early Publication Request: No

Title

Insert, a machine and a system for the preparation of beverages

Preliminary Class

099

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process simplifies the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier

license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

EXHIBIT B



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

U.S. APPLICATION NUMBER NO. 10/589,459	FIRST NAMED APPLICANT Andrew Michael Halliday	ATTY. DOCKET NO. 67681 / 1410
INTERNATIONAL APPLICATION NO. PCT/GB05/00476		
I.A. FILING DATE 02/11/2005	PRIORITY DATE 02/17/2004	

48940
FITCH EVEN TABIN & FLANNERY
120 S. LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

DOCKETED

APR 23 2007

BY:

CONFIRMATION NO. 7180

371 ACCEPTANCE LETTER



0C000000023328429

Date Mailed: 04/12/2007

NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C 371 AND 37 CFR 1.495

The applicant is hereby advised that the United States Patent and Trademark Office in its capacity as a Designated / Elected Office (37 CFR 1.495), has determined that the above identified international application has met the requirements of 35 U.S.C. 371, and is ACCEPTED for national patentability examination in the United States Patent and Trademark Office.

The United States Application Number assigned to the application is shown above and the relevant dates are:

08/14/2006	08/17/2006
DATE OF RECEIPT OF 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) REQUIREMENTS	DATE OF COMPLETION OF ALL 35 U.S.C. 371 REQUIREMENTS

A Filing Receipt (PTO-103X) will be issued for the present application in due course. **THE DATE APPEARING ON THE FILING RECEIPT AS THE " FILING DATE" IS THE DATE ON WHICH THE LAST OF THE 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) REQUIREMENTS HAS BEEN RECEIVED IN THE OFFICE. THIS DATE IS SHOWN ABOVE. The filing date of the above identified application is the international filing date of the international application (Article 11(3) and 35 U.S.C. 363).** Once the Filing Receipt has been received, send all correspondence to the Group Art Unit designated thereon.

The following items have been received:

- Copy of the International Application filed on 08/14/2006
- Copy of the International Search Report filed on 08/14/2006
- Preliminary Amendments filed on 08/14/2006
- Information Disclosure Statements filed on 11/21/2006
- Oath or Declaration filed on 08/14/2006
- U.S. Basic National Fees filed on 08/14/2006
- Priority Documents filed on 08/14/2006

Applicant is reminded that any communications to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above (37 CFR 1.5)

MAMIE P PERSON

Telephone: (703) 308-9140 EXT 227

PART 1 - ATTORNEY/APPLICANT COPY

FORM PCT/DO/EO/903 (371 Acceptance Notice)

EXHIBIT C

10/589459

IAP6 Rec'd PCT/PTO 14 AUG 2006

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: Int. Appl. No. PCT/GB2005/000476	<u>CERTIFICATE OF MAILING BY "EXPRESS MAIL"</u> "Express Mail" Mailing Label Number <u>EV 769060025 US</u>
Applicant: Halliday et al.	Date of Deposit:
Filed: Herewith	I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37CFR §1.10 on the date indicated above and is addressed to the Mail Stop PCT , Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
Title: AN INSERT, A MACHINE AND A SYSTEM FOR THE PREPARATION OF BEVERAGES	<u>ROGER V. SEWELL</u> (Typed or printed name of person mailing)
Group Art Unit: Not Yet Assigned	<u><i>Roger V. Sewell</i></u> (Signature of person mailing)
Examiner: Not Yet Assigned	
<hr/>	
Docket No.: 1410/67681	
Customer No.: 48940	

Mail Stop **PCT**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRELIMINARY AMENDMENT

Sir:

Prior to examining the above-identified U.S. national phase application of International Patent Application No. PCT/GB2005/000476, filed February 11, 2005, please amend the above-identified application as follows:

Amendments to the Specification begin on page 2 of this paper.

Amendments to the Claims begin on page 3 of this paper.

Remarks begin on page 11 of this paper.

AMENDMENTS TO THE SPECIFICATION:

Please add Abstract of Disclosure as follows:

Abstract of the Disclosure

An insert for use in a beverage preparation machine of a type comprising a brew head suitable for receiving a rigid or semi-rigid cartridge. The brew head comprises an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine, the insert comprises an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert to flow out of the outlet of the brew head.

AMENDMENTS TO THE CLAIMS:

This listing of claims will replace all prior versions, and listings, of claims in the application.

Listing of Claims:

1. (Original) An insert for use in a beverage preparation machine of a type comprising a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine, the insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part comprising an inlet and an outlet arranged to communicate respectively with the inlet and outlet of the brew head of the beverage preparation machine when the insert is inserted into the machine such that, in use, water from the inlet of the brew head passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert to flow out of the outlet of the brew head.

2. (Original) An insert as claimed in claim 1 wherein the quantity of beverage ingredients loaded in use into the insert are loose.

3. (Original) An insert as claimed in claim 2 wherein the insert comprises filtering means between the brewing volume and the outlet of the insert.

4. (Original) An insert as claimed in claim 1 wherein the quantity of beverage ingredients loaded in use into the insert are contained in a container comprising filtering means.

5. (Original) An insert as claimed in claim 4 wherein the container is flexible.

6. (Currently Amended) An insert as claimed in ~~claim 4 or~~ claim 5 wherein the container is formed at least in part from a filter paper or filtering membrane.

7. (Currently Amended) An insert as claimed in ~~any of claim 4 to 6~~ claim 6, wherein the container is a filter bag.

8. (Original) An insert as claimed in claim 4 wherein the container is a rigid or semi-rigid cartridge.

9. (Original) An insert as claimed in claim 8 wherein the cartridge is any of semi-spherical, cylindrical, round or square in shape.

10. (Currently Amended) An insert as claimed in ~~any preceding~~ claim 9, wherein the sealing means is located on or in the upper part of the insert.

11. (Currently Amended) An insert as claimed in ~~any of claims 1 to 9~~ claim 10, wherein the sealing means is located on or in the lower part of the insert.

12. (Currently Amended) An insert as claimed in ~~any preceding~~ claim 11, wherein the sealing means comprises a ring seal for sealing around a periphery of the brewing volume.

13. (Original) An insert as claimed in claim 12 wherein the sealing means comprises an O-ring.

14. (Currently Amended) An insert as claimed in ~~any preceding~~ claim 13, wherein the sealing means is formed from an elastomeric material.

15. (Currently Amended) An insert as claimed in ~~any preceding~~ claim 14, wherein the upper part and lower part are disconnected from one another.

16. (Original) An insert as claimed in claim 15 wherein the upper part and lower part comprise co-operating formations to permit snap-fitting together of the upper part and lower part.

17. (Currently Amended) An insert as claimed in ~~any of claims 1 to 15~~ claim 15 wherein the upper part and lower part are joined by a hinge allowing the upper and lower parts to move between the open and closed configurations.

18. (Currently Amended) An insert as claimed in ~~any preceding claim 17~~, wherein the upper part of the insert is rigid or semi-rigid such that pressure applied, in use, to the upper part of the insert by a closure mechanism of the beverage preparation machine on closing of said closure mechanism squeezes the upper and lower parts of the insert together with sufficient force for the sealing means to seal together the upper and lower parts.

19. (Currently Amended) An insert as claimed in ~~any preceding claim 18~~, wherein the upper part of the insert is rigid or semi-rigid such that pressure applied, in use, to the upper part of the insert by a closure mechanism of the beverage preparation machine on closing of said closure mechanism seals the lower part of the insert against the inlet of the brew head of the beverage preparation machine.

20. (Currently Amended) An insert as claimed in ~~any preceding claim 19~~, wherein the upper part is in the form of a domed shell.

21. (Currently Amended) An insert as claimed in ~~any preceding claim 20~~, wherein the lower part of the insert is formed as one piece.

22. (Currently Amended) An insert as claimed in ~~any of claims 1 to 20~~ claim 20, wherein the lower part of the insert is formed from more than one piece.

23. (Currently Amended) An insert as claimed in ~~any preceding claim 22~~, wherein the insert is disc-shaped.

24. (Currently Amended) An insert as claimed in ~~any preceding claim 23~~, formed from plastic.

25. (Currently Amended) An insert as claimed in ~~any preceding claim 24~~, wherein the inlet and outlet of the insert are coplanar.

26. (Currently Amended) An insert as claimed in ~~any preceding claim 25~~, further comprising an aperture for receiving on insertion of the insert in the beverage machine a window of a bar code reader or RFID reader of said machine.

27. (Original) An insert as claimed in claim 26 wherein the aperture is coplanar with the inlet and outlet of the insert.

28. (Currently Amended) An insert as claimed in ~~any preceding claim 27~~, wherein the inlet of the insert is located at or near a periphery of the lower part and the outlet of the insert is located at a centre of the lower part.

29. (Currently Amended) An insert as claimed in ~~any preceding claim 28~~, wherein, in use, flow through the insert is from the inlet to the outlet.

30. (Original) An insert as claimed in claim 29 wherein, in use, flow through the insert is generally in an inward direction from the inlet to the outlet.

31. (Currently Amended) An insert as claimed in ~~any preceding claim 30~~, further comprising rotatable means for ~~rotatable~~ rotatably attaching the insert to the beverage preparation machine.

32. (Original) An insert as claimed in claim 31 wherein the rotatable means allows the insert to be rotated on closure of a closure mechanism of the beverage preparation machine into a horizontal orientation such that the lower part is sealed against the inlet of the brew head.

33. (Currently Amended) An insert as claimed in ~~claim 31 or claim 32~~ wherein the rotatable means comprises one or more legs which are attachable to, and rotatable about, one or more pivot points of the brew head.

34. (Currently Amended) An insert as claimed in ~~any preceding claim 33~~, further comprising coding means for controlling operation of said beverage preparation machine.

35. (Original) An insert as claimed in claim 34 wherein the coding means comprises a bar code or radio frequency identification device (RFID).

36. (Currently Amended) A beverage preparation system comprising a beverage preparation machine and an insert for use in said machine, said insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert being as claimed in any preceding claim.

37. (Original) A beverage preparation system as claimed in claim 36 wherein the beverage preparation machine comprises a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine.

38. (Original) A beverage preparation system as claimed in claim 37 wherein the inlet of the brew head is located at or near a periphery of the brew head and the outlet of the brew head is located at a centre of the brew head.

39. (Currently Amended) A beverage preparation system as claimed in ~~claim 37 or~~ claim 38 wherein, on insertion of the insert into the brew head, the inlet and outlet of the insert lie on top of the upwardly directed inlet and downwardly directed outlet orifices of the brew head.

40. (Currently Amended) A beverage preparation system as claimed in any ~~of claims 37 to 39~~ claim 39, wherein the brew head of the beverage preparation machine comprises a closure mechanism moveable between an open configuration in which the insert can be inserted into the brew head and a closed configuration in which the insert is squeezed together by the closure mechanism with sufficient force for the sealing means of the insert to seal together the upper and lower parts of the insert.

41. (Currently Amended) A beverage preparation system as claimed in any ~~of claims 37 to 40~~ claim 40, wherein the brew head of the beverage preparation machine

comprises a closure mechanism moveable between an open configuration in which the insert can be inserted into the brew head and a closed configuration in which the lower part of the insert is sealed against the inlet of the brew head of the beverage preparation machine.

42. (Currently Amended) A beverage preparation system as claimed in ~~any of claims 37 to 44~~ claim 41, wherein the brew head comprises a fixed lower part and a rotatable upper part, the fixed lower part comprising the brew head inlet and outlet, the upper part being rotatable from an open position in which the insert can be inserted into the brew head and a closed position in which the insert is engaged between the fixed lower part and the rotatable upper part.

43. (Original) A beverage preparation system as claimed in claim 42 wherein the insert is a rotatable attachment to the brew head such that rotation of the upper part of the brew head from the open to the closed position rotates the insert into contact with the fixed lower part.

44. (Original) A beverage preparation system as claimed in claim 42 wherein the insert is locatable directly onto the fixed lower part of the brew head when the upper part of the brew head is in the open position.

45. (Currently Amended) A beverage preparation system as claimed in ~~any of claims 36 to 44~~ claim 44, wherein the beverage preparation machine comprises a reader for detecting a bar code or radio frequency identification device (RFID) located on the insert.

46. (Currently Amended) A beverage preparation system as claimed in ~~any of claims 36 to 45~~ claim 45, further comprising a quantity of beverage ingredients.

47. (Original) A beverage preparation system as claimed in claim 46 wherein the quantity of beverage ingredients is contained in a container comprising filtering means.

48. (Currently Amended) A beverage preparation system as claimed in ~~claim 46 or claim 47~~ wherein the beverage ingredients are selected from the group

containing consisting of roast and ground coffee, leaf tea, powdered coffee, powdered tea, creamer, cappuccino mix, chocolate and liquid chocolate, coffee, tea and milk.

49. (Original) A beverage preparation system as claimed in claim 48 wherein the container is flexible.

50. (Currently Amended) A beverage preparation system as claimed in ~~claim 48 or~~ claim 49 wherein the container is formed at least in part from a filter paper or filtering membrane.

51. (Currently Amended) A method of dispensing a beverage using a comprising the steps of:

providing a beverage preparation machine comprising a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine, ~~the method comprising the steps of:~~ ;

opening a closure mechanism of the beverage preparation machine;

inserting an insert containing a quantity of beverage ingredients into the brew head, the insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume being as claimed in any of claims 1 to 35 and containing a quantity of beverage ingredients;

closing the closure mechanism to squeeze the insert with sufficient force such that to seal the sealing means of the insert seals together the upper and lower parts of the insert;

operating the beverage preparation machine to pass water upwardly from the inlet of the brew head through the inlet of the insert into the brew volume of the insert; and

dispensing a the beverage formed in the brew volume from the water and the beverage ingredients downwardly through the outlet of the insert and the outlet of the brew head.

REMARKS

By this Preliminary Amendment, Applicants amended the claims as presented in the publication WO 2005/079639 A1 of the International application PCT/GB2005/000476, enclosed herewith. Claims 6, 7, 10-12, 14, 15, 17-26, 28, 29, 31, 33, 34, 36, 39-42, 45, 46, 48, 50 and 51 were amended to avoid multiple dependency and to comply with US rules. In making these amendments care has been taken to ensure that no new matter has been added and that the claims remain supported by the specification.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,

FITCH, EVEN, TABIN & FLANNERY

By:



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EXHIBIT D

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:	Application No. 10/589,459)	<i>Confirmation No. 7180</i>
Filed:	August 14, 2006)	
Applicants:	Andrew Michael HALLIDAY et al.)	
Title:	AN INSERT, A MACHINE AND A SYSTEM FOR THE PREPARATION OF BEVERAGES)	This Amendment was electronically filed on June 16, 2010 using EFS-Web.
Art Unit:	3742)	
Examiner:	Jianying Cui ATKISSON)	
Attorney Docket:	1410/67681)	
Customer No.	48940)	

Mail Stop AMENDMENT
Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia 22313-1450

AMENDMENT

Sir:

In response to the Office Action mailed March 22, 2010, the following is respectfully submitted:

Amendments to the Claims reflected in the listing of claims beginning on page 2 of this paper; and

Remarks beginning on page 11 of this paper.

AMENDMENTS TO THE CLAIMS

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims:

1. (Original) An insert for use in a beverage preparation machine of a type comprising a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine, the insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part comprising an inlet and an outlet arranged to communicate respectively with the inlet and outlet of the brew head of the beverage preparation machine when the insert is inserted into the machine such that, in use, water from the inlet of the brew head passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert to flow out of the outlet of the brew head.

2. (Original) An insert as claimed in claim 1 wherein the quantity of beverage ingredients loaded in use into the insert are loose.

3. (Original) An insert as claimed in claim 2 wherein the insert comprises filtering means between the brewing volume and the outlet of the insert.

4. (Original) An insert as claimed in claim 1 wherein the quantity of beverage ingredients loaded in use into the insert are contained in a container comprising filtering means.

5. (Original) An insert as claimed in claim 4 wherein the container is flexible.

6. (Previously Presented) An insert as claimed in claim 5 wherein the container is formed at least in part from a filter paper or filtering membrane.

7. (Previously Presented) An insert as claimed in claim 6, wherein the container is a filter bag.

8. (Original) An insert as claimed in claim 4 wherein the container is a rigid or semi-rigid cartridge.

9. (Original) An insert as claimed in claim 8 wherein the cartridge is any of semi-spherical, cylindrical, round or square in shape.

10. (Previously Presented) An insert as claimed in claim 9, wherein the sealing means is located on or in the upper part of the insert.

11. (Previously Presented) An insert as claimed in claim 10, wherein the sealing means is located on or in the lower part of the insert.

12. (Previously Presented) An insert as claimed in any preceding claim 11, wherein the sealing means comprises a ring seal for sealing around a periphery of the brewing volume.

13. (Original) An insert as claimed in claim 12 wherein the sealing means comprises an O-ring.

14. (Previously Presented) An insert as claimed in claim 13, wherein the sealing means is formed from an elastomeric material.

15. (Previously Presented) An insert as claimed in claim 14, wherein the upper part and lower part are disconnected from one another.

16. (Original) An insert as claimed in claim 15 wherein the upper part and lower part comprise co-operating formations to permit snap-fitting together of the upper part and lower part.

17. (Previously Presented) An insert as claimed in claim 15 wherein the upper part and lower part are joined by a hinge allowing the upper and lower parts to move between the open and closed configurations.

18. (Previously Presented) An insert as claimed in claim 17, wherein the upper part of the insert is rigid or semi-rigid such that pressure applied, in use, to the upper part of the insert by a closure mechanism of the beverage preparation machine on closing of said closure mechanism squeezes the upper and lower parts of the insert together with sufficient force for the sealing means to seal together the upper and lower parts.

19. (Previously Presented) An insert as claimed in claim 18, wherein the upper part of the insert is rigid or semi-rigid such that pressure applied, in use, to the upper part of the insert by a closure mechanism of the beverage preparation machine on closing of said closure mechanism seals the lower part of the insert against the inlet of the brew head of the beverage preparation machine.

20. (Previously Presented) An insert as claimed in any preceding claim 19, wherein the upper part is in the form of a domed shell.

21. (Previously Presented) An insert as claimed in claim 20, wherein the lower part of the insert is formed as one piece.

22. (Previously Presented) An insert as claimed in claim 20, wherein the lower part of the insert is formed from more than one piece.

23. (Previously Presented) An insert as claimed in claim 22, wherein the insert is disc-shaped.

24. (Previously Presented) An insert as claimed in claim 23, formed from plastic.

25. (Previously Presented) An insert as claimed in claim 24, wherein the inlet and outlet of the insert are coplanar.

26. (Previously Presented) An insert as claimed in claim 25, further comprising an aperture for receiving on insertion of the insert in the beverage machine a window of a bar code reader or RFID reader of said machine.

27. (Original) An insert as claimed in claim 26 wherein the aperture is coplanar with the inlet and outlet of the insert.

28. (Previously Presented) An insert as claimed in claim 27, wherein the inlet of the insert is located at or near a periphery of the lower part and the outlet of the insert is located at a centre of the lower part.

29. (Previously Presented) An insert as claimed in claim 28, wherein, in use, flow through the insert is from the inlet to the outlet.

30. (Original) An insert as claimed in claim 29 wherein, in use, flow through the insert is generally in an inward direction from the inlet to the outlet.

31. (Previously Presented) An insert as claimed in claim 30, further comprising rotatable means for rotatably attaching the insert to the beverage preparation machine.

32. (Original) An insert as claimed in claim 31 wherein the rotatable means allows the insert to be rotated on closure of a closure mechanism of the beverage preparation machine into a horizontal orientation such that the lower part is sealed against the inlet of the brew head.

33. (Previously Presented) An insert as claimed in claim 32 wherein the rotatable means comprises one or more legs which are attachable to, and rotatable about, one or more pivot points of the brew head.

34. (Previously Presented) An insert as claimed in claim 33, further comprising coding means for controlling operation of said beverage preparation machine.

35. (Original) An insert as claimed in claim 34 wherein the coding means comprises a bar code or radio frequency identification device (RFID).

36. (Withdrawn) A beverage preparation system comprising a beverage preparation machine and an insert for use in said machine, said insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume containing, in use, the quantity of beverage ingredients, the lower part passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert.

37. (Withdrawn) A beverage preparation system as claimed in claim 36 wherein the beverage preparation machine comprises a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine.

38. (Withdrawn) A beverage preparation system as claimed in claim 37 wherein the inlet of the brew head is located at or near a periphery of the brew head and the outlet of the brew head is located at a centre of the brew head.

39. (Withdrawn) A beverage preparation system as claimed in claim 38 wherein, on insertion of the insert into the brew head, the inlet and outlet of the insert lie on top of the upwardly directed inlet and downwardly directed outlet orifices of the brew head.

40. (Withdrawn) A beverage preparation system as claimed in claim 39, wherein the brew head of the beverage preparation machine comprises a closure mechanism moveable between an open configuration in which the insert can be inserted into the brew head and a closed configuration in which the insert is squeezed together by the closure mechanism with sufficient force for the sealing means of the insert to seal together the upper and lower parts of the insert.

41. (Withdrawn) A beverage preparation system as claimed in claim 40, wherein the brew head of the beverage preparation machine comprises a closure mechanism moveable between an open configuration in which the insert can be inserted into the brew head and a closed configuration in which the lower part of the insert is sealed against the inlet of the brew head of the beverage preparation machine.

42. (Withdrawn) A beverage preparation system as claimed in claim 41, wherein the brew head comprises a fixed lower part and a rotatable upper part, the fixed lower part comprising the brew head inlet and outlet, the upper part being rotatable from an open position in which the insert can be inserted into the brew head and a closed position in which the insert is engaged between the fixed lower part and the rotatable upper part.

43. (Withdrawn) A beverage preparation system as claimed in claim 42 wherein the insert is a rotatable attachment to the brew head such that rotation of the upper part of the brew head from the open to the closed position rotates the insert into contact with the fixed lower part.

44. (Withdrawn) A beverage preparation system as claimed in claim 42 wherein the insert is locatable directly onto the fixed lower part of the brew head when the upper part of the brew head is in the open position.

45. (Withdrawn) A beverage preparation system as claimed in claim 44, wherein the beverage preparation machine comprises a reader for detecting a bar code or radio frequency identification device (RFID) located on the insert.

46. (Withdrawn) A beverage preparation system as claimed in claim 45, further comprising a quantity of beverage ingredients.

47. (Withdrawn) A beverage preparation system as claimed in claim 46 wherein the quantity of beverage ingredients is contained in a container comprising filtering means.

48. (Withdrawn) A beverage preparation system as claimed in claim 47 wherein the beverage ingredients are selected from the group consisting of roast and ground coffee, leaf tea, powdered coffee, powdered tea, creamer, cappuccino mix, chocolate and liquid chocolate, coffee, tea and milk.

49. (Withdrawn) A beverage preparation system as claimed in claim 48 wherein the container is flexible.

50. (Withdrawn) A beverage preparation system as claimed in claim 49 wherein the container is formed at least in part from a filter paper or filtering membrane.

51. (Withdrawn) A method of dispensing a beverage using a comprising the steps of:
providing a beverage preparation machine comprising a brew head suitable for receiving a rigid or semi-rigid cartridge, the brew head comprising an upwardly directed inlet for supplying water to the brew head and a downwardly directed outlet for outflow of beverage produced by the machine;

opening a closure mechanism of the beverage preparation machine;

inserting an insert containing a quantity of beverage ingredients into the brew head, the insert comprising an upper part, a lower part and sealing means, the upper and lower parts being moveable between an open configuration in which a quantity of beverage ingredients may be loaded into the insert and a closed configuration in which the upper and lower parts are sealed together by the sealing means to define therebetween a brewing volume;

closing the closure mechanism to squeeze the insert with sufficient force such that to seal together the upper and lower parts of the insert;

operating the beverage preparation machine to pass water upwardly from the inlet of the brew head through the inlet of the insert into the brew volume of the insert; and

dispensing a the beverage formed in the brew volume from the water and the beverage ingredients downwardly through the outlet of the insert and the outlet of the brew head.

REMARKS

The provisional election of Group I, claims 1-35, made by James Krueger without traverse during a telephone conversation with the Examiner on February 16, 2010 is affirmed. Claims 36-51 are withdrawn as being drawn to a non-elected invention. Therefore, claims 1-35 are presently under examination.

Rejections Under 35 U.S.C. § 112

Claims 1-35 were rejected under 35 U.S.C. § 112, second paragraph.

Claim 1 is rejected as allegedly having insufficient antecedent basis for the limitation "the inlet and outlet of the brew head." MPEP 2173.05(c) states:

If the scope of a claim would be reasonably ascertainable by those skilled in the art, then the claim is not indefinite. *Energizer Holdings Inc. v. Int'l Trade Comm'n*, 435 F.3d 1366, 77 USPQ2d 1625 (Fed. Cir. 2006)(holding that "anode gel" provided by implication the antecedent basis for "zinc anode"); *Ex parte Porter*, 25 USPQ2d 1144, 1145 (Bd. Pat. App. & Inter. 1992) ("controlled stream of fluid" provided reasonable antecedent basis for "the controlled fluid").

Prior to the phrase "the inlet and outlet of the brew head," the claim recites "the brew head comprising an upwardly directed inlet for supplying water to the brew head, a downwardly directed outlet for outflow of beverage produced by the machine" and contains no other intervening introduction of inlet or outlet elements relating to the brew head. Therefore, antecedent basis is indeed provided for the phrase "the inlet and outlet of the brew head."

Claim 18 is rejected as indefinite for the use of the term "sufficient" in the phrase "said closure mechanism squeezes the upper and lower parts of the insert together with sufficient force for the sealing means to seal together the upper and lower parts" as recited in claim 18. The scope of the term "sufficient force" is clearly defined by the claim itself: "for the sealing means to seal together the upper and lower parts." In addition, the scope of the term "sufficient force" is ascertainable based on the disclosure of the specification, e.g., page 32, line 5 to page 34, line 5 of the Specification as filed.

Claim 20 is rejected as indefinite for the use of the term "the upper part" as the Examiner asserts that it is unclear if "the upper part" refers to "the upper part of the insert." Similar to the rejection to claim 1, it is asserted that sufficient antecedent basis is provided. Particularly, claim 1 recites "...the insert comprising an upper part..." and no other intervening introduction of an upper part in relation to any other structure is provided in any of claims 1-19. Therefore, the introduction of "an upper part" provides direct antecedent basis for the term "the upper part."

Claim 30 is rejected as indefinite for the use of the term "generally" in the phrase "generally in an inward direction" as recited in claim 30. The term "generally" is an accepted modifier allowing for some variation from the standard, e.g., *Anchor Wall Sys. v. Rockwood Retaining Walls, Inc.*, 340 F.3d 1298, 1311 (Fed. Cir. 2003), (generally parallel would envision some amount of deviation from exactly parallel). It is clear that the term "generally in an inward direction from the inlet to the outlet" means that flow will move from the inlet to the outlet and that there may be some deviation from the flow progressing directly from the inlet to the outlet. Further, support for the phrase can be found at least at page 44, lines 7-11 and Figures 22 and 23 of the Specification as filed.

For at least the above reasons, claims 1-35 are not indefinite under 35 U.S.C. § 112.

Rejections Under 35 U.S.C. § 103

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as obvious over Burrows et al. US 6,968,775 B2 ("Burrows"), and in view of Cai US 7,032,503 B2 ("Cai").

With regard to claim 1, the applied references fail to disclose or suggest an insert for use in a beverage preparation machine of a type comprising a brew head "such that, in use, water from the inlet of the brew head passes upwardly through the inlet of the insert into the brewing volume and such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert" as recited in claim 1.

Instead, Burrows discloses that the inlet to the inner portion of the brew basket 12 be provided in the form of hollow ribs 72 formed in the brew basket side walls 68. These hollow ribs 72 are disclosed as having closed upper ends and being provided with multiple jet ports 14 “positioned and aimed for jetting water streams generally tangentially in a common swirling direction...into the brew basket interior” (Burrows, Col. 5, lines 44-64). Such an arrangement is provided to generate centrifugal action against the brew basket side wall. (Burrows, Col. 6, lines 54-57). Therefore, instead of the water being introduced from the bottom of the brew volume upwardly into the brew chamber through an inlet formed in the bottom of the insert, as claimed, the water is introduced at various levels along the sidewall and above the bottom of the brew basket in Burrows.

Cai does not cure the failing of Burrows. Similar to Burrows, Cai discloses that water is to be introduced from above the bottom of the insert. Particularly, Cai discloses that water is introduced from a brew head 35 downwardly into a brew basket 32 through a hygiene device 10. (Cai, Col. 2, line 54 – Col. 3, line 4).

Because neither reference discloses or suggests an insert such that “water from the inlet of the brew head passes upwardly through the inlet of the insert into the brew volume” as recited in claim 1, their proposed combination will not result in the insert of claim 1. Thus, the Office action has failed to establish a *prima facie* case of obviousness.

With further regard to claim 1, the applied references fail to disclose or suggest an insert for use in a beverage preparation machine of a type comprising a brew head “such that beverage produced from the water and the quantity of beverage ingredients passes downwardly through the outlet of the insert” as recited in claim 1.

The Office action, pp. 4-5, alleges that this element is found in Burrows. However, this is not the case. Burrows discloses that its brew basket 12 is to be provided with brew basket side walls 68, “a portion of which is defined by one or more mesh or mesh-like filter elements 78. Such filter elements 78 are supported by the brew basket 12 in slightly spaced relation to the adjacent divider wall 36 to define a flow pathway” (Burrows, Col. 6,

lines 55-59). Therefore, the flow path of the beverage of Burrows is in a lateral direction through the filter elements 78 of the brew basket 12, not downward through an outlet as presently claimed. Accordingly, for this additional reason, the Office action has failed to establish a *prima facie* case of obviousness.

For at least the above discussed reasons, it is asserted that the applied references fail to disclose or suggest claim 1 and thereby request reconsideration and allowance of claim 1. Similarly, claims 2-35, dependent from claim 1, are allowable as well for the reasons discussed above.

With regard to claim 4, the applied references fail to disclose or suggest an insert wherein "the quantity of beverage ingredients loaded in use into the insert are contained in a container comprising filtering means" as recited in claim 4.

The Office Action alleges that Burrows discloses the claimed container because Burrows discloses a brew basket 12 on which mesh-like filter elements 78 are provided on portions of the side wall. However, the Office Action is now applying the brew basket 12 against this claim as both the insert and the container comprising filtering elements. However, as claimed, these are two separate and distinct elements with the container being loaded into the insert. The Office Action fails to describe how this is disclosed or suggested by Burrows.

Similarly with claims 5-9, the Office Action fails to identify how Burrows discloses both a receptacle and a container. With specific regard to claim 7, the Office Action alleges that Burrows discloses "the container is a filter bag" as recited in claim 7. The Office Action states "Fig. 7, the portion of 78 is shaped like a bag" (Office Action, page 6). This statement is completely unfounded. There is no such claimed bag disclosed or suggested in Burrows.

Claims 26-35 stand rejected under 35 U.S.C. § 103(a) as obvious over Burrows, and in view of Halliday et al. US 2004/0197444 A1 ("Halliday"). In view of the above discussion of Burrows and Cai as applied to claim 1, it is respectfully asserted that claims 26-35, dependent therefrom, are allowable as well.

Application No. 10/589,459
AMENDMENT dated June 16, 2010
Reply to Office Action of March 22, 2010

CONCLUSION

For the reasons discussed above reconsideration and allowance of claims 1-35 are respectfully requested. The Examiner is invited to contact the undersigned attorney to expedite prosecution.

The Commissioner is hereby authorized to charge any additional fees which may be required with respect to this communication, or credit any overpayment, to Deposit Account No. 06-1135.

Respectfully submitted,
FITCH, EVEN, TABIN & FLANNERY

Dated: June 16, 2010

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